

DIVISION III

CHAPTER 8 - CRIMINAL PROCEEDINGS

RULE 8.0 CONTINUANCES

Continuances of hearings shall be granted only upon a showing of good cause pursuant to section 1050 of the Penal Code. Any continuance request shall be filed at least two court days before the hearing. Any failure to comply with the requirements of section 1050, subdivision (b) of the Penal Code shall subject counsel for the moving party to the possibility of sanctions under section 1050.5 of the Penal Code.

In ruling on motions to continue, the following are among the factors to be taken into consideration.

1. The time when the need for a continuance arose, the diligence of counsel in bringing the need for a continuance to the attention of the Court and opposing counsel at the earliest possible date and in attempting to avoid a continuance.
2. The proximity of the preliminary hearing, trial, or other matter to be continued; the age of the case; the established time limits for processing cases; and the nature of any previous continuances or prior orders entered in the case.
3. The earliest possible date all parties and the Court will be ready to proceed.
4. Whether the continuance may be avoided by substitution of attorneys or witnesses, or by the use of stipulation as to testimony.
5. The injury or inconvenience caused to the party not requesting the continuance.
6. Whether the continuance will further the interests of justice.

Good cause is established by specific facts showing that a continuance is necessary. The facts constituting good cause and the justification for the length of the continuance shall be stated on the record.

(Effective 5/19/98)

RULE 8.1 DISCOVERY

Discovery in criminal cases shall be in accordance with Title VI, Chapter 10 of the Penal Code. *(Effective 5/19/98)*

RULE 8.2 MOTIONS FOR BAIL MODIFICATIONS OR RELEASE ON OWN RECOGNIZANCE

Motions for own recognizance release or bail modification shall be made in open court. Once a judge has ruled on a bail or motion, the Court will not modify bail or grant OR without a showing of materially changed circumstances.

When a motion for own recognizance release or bail modification has been made to the Court, and granted in whole or in part, or granted conditionally or on terms, and a subsequent motion is made by the same party in the same case for a similar order upon materially changed circumstances the subsequent motion shall be accompanied by disclosure that a prior motion has been made, when and to what judge it was made, what the nature of the motion was, what order or decision was made thereon, and what materially changed circumstances are claimed to be shown. *(Effective 5/19/98)*

RULE 8.3 PRETRIAL MOTIONS

1. Unless otherwise ordered by the Court, all notices of motion shall be filed at the earliest possible date, and in any event no later than 45 days after appearance of counsel. These notices shall be filed in writing at least five (5) court days prior to the hearing date and with five (5) court days written notice served on all parties. These motions will be deemed untimely if made on the date of trial unless the motion could not, with due diligence, have been made earlier. If made on the date of trial a declaration of due diligence must be attached to the motion. Written motions shall contain a notice of motion; the motion itself; a declaration or affidavit in support thereof; and a meaningful memorandum of points and authorities. Parties filing notices of motion must file memoranda of points and authorities in conformity with Rule 313 of the California Rules of Court. No date for hearing will be set until such papers are properly filed. Any motion may be made outside these time limitations for good cause; good cause includes, but is not limited to, newly discovered or revealed relevant information or discovery.

2. Motions decided in a department other than the Trial Department shall not be renewed in the Trial Department unless the motion could not, with due diligence, have been made earlier and either:

- A. Is based upon new grounds or evidence which could not, with due diligence, have been discovered earlier, or
- B. The original motion was denied without prejudice and with leave granted to renew.

3. Motions Under Section 1538.5 of the Penal Code:

The notice of Motion filed pursuant to Penal Code §1538.5 shall specifically describe and list the evidence which is the subject of the Motion to Suppress; and shall specifically state the theory or theories which shall be relied upon and urged for the suppression of evidence; and cite the specific authority or authorities which will be offered in support of the theory or theories upon which suppression of the evidence is urged. Such motions shall also set forth names of any necessary witnesses then known to the moving party. If relevant to the motion, legible copies of the search warrant, affidavit in support of the warrant and return and inventory shall be appended to the moving papers.

4. Pretrial Motions:

The following motions shall be set for hearing within approximately 20 court days after a defendant's first appearance after arraignment on an information or an indictment:

- A. Demurrers
- B. Penal Code 995 Motion
- C. Penal Code 1538.5 Motion
- D. Motion to Dismiss for Delay of Prosecution
- E. Motion to Disclose Informant.

Defendant's moving papers for any of such motions (except those under § 1538.5) shall be filed at least 10 court days before the date set for hearing on such motion by the Court. Responses by the people shall be filed at least 5 court days before the hearing date. If the moving papers are not filed on the appropriate date, and the date for hearing on the motion has not been continued for good cause pursuant to Penal Code § 1050, the motion shall be dropped

from the calendar and shall not be subject to renewal except by order of the Executive Judge for good cause shown.

Filing of papers in connection with motions pursuant to Penal Code § 1538.5 shall be governed by the provisions of Penal Code §1538.5(i).

(Effective 5/19/98; Amended 7/1/99)

RULE 8.4 SEALING OF SEARCH WARRANTS INVOLVING JUVENILES

All criminal search warrants and/or returns of service thereon involving juveniles, charged or not charged, are ordered sealed, to be opened only upon order of the court upon proper application. *(Effective 5/19/98)*